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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,989	11/16/2005	Bernd Siber	3489	3906
7590 Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743				
EXAMINER				
SMITH, MATTHEW J				
ART UNIT		PAPER NUMBER		
3635				
MAIL DATE		DELIVERY MODE		
10/26/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/556,989

Applicant(s)

SIBER ET AL.

Examiner

Matthew J. Smith

Art Unit

3635

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-12 is/are rejected.
- 7) ☐ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5, and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson in view of Guttinger et al. (4642471), Jameson (4529976) and Powers (4758827).

Davison discloses a fire alarm comprising a flush-mounted installation outlet for installation in a ceiling, a base 46 connected with the flush-mounted installation outlet; a fire alarm insert 30 connected to the base and carrying a radiation receiver and a radiation transmitter; a covering cap 21; a sheet 29 spaced from the base and located between the covering cap and the fire alarm insert to cover the fire alarm insert; the covering cap having a recess 53 into which the sheet is inserted; and the covering cap detachably connectable with the fire alarm insert but not transmitter and receiver spaced from one another, and the covering cap transparent to expose the color of the sheet.

Guttinger et al. present a fire alarm with a transmitter 26 spaced from a receiver 30.

Powers shows a smoke detector having a transparent covering cap.

Jameson et al. discuss a fire alarm with a base 8; a fire alarm insert 1 connected to the base with a releasable detent 26; a covering cap 3a and a decorative sheet 35 to cover the fire alarm insert.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the Davidson transmitter and receiver spaced apart, as presented by Guttinger et al., since it is well known.

It would also have been obvious to make the Davidson cover transparent, as shown by Powers, in order to view the underlying structure (Powers, col. 2, lines 17-19)

It would further have been obvious to use a detent type connector and to make the Davidson sheet 29 decorative, as discussed by Jameson et al., since these types of connectors are well known and to provide add to the décor, respectively.

It would finally have been further obvious to make the covering cap have a mat finish; the sheet colored, have a pattern, colored on both sides, have a pattern on both sides, different colors, patterns for each side of the sheet, in a neutral color, or have a surface structure that can be painted in a common ceiling color since these modifications are suggested by Jameson et al. (col. 4, lines 51-55), expected, and predictable.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson in view of Powers as applied to claim 1 above, and further in view of Oppelt et al. (6828913).

The combination discloses the invention substantially as claimed but not a light transmitter and a light receiver arranged such that a scattering point is located outside a light scattering smoke detector.

Oppelt et al. describe a smoke alarm having a light transmitter and a light receiver arranged such that a scattering point is located outside a light scattering smoke detector.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the scattering point outside the detector, as described by Oppelt et al., since it is well known.

Allowable Subject Matter

Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 20 October 2010 have been fully considered but they are not persuasive. The examiner contends the combination meets the limitations of the claims since a receiver separate from the transmitter is well known and the sheet color is suggested by the Jameson et al. discussion of décor.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Smith whose telephone number is (571) 272-7034. The examiner can normally be reached on T-Th, 8-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian E. Glessner can be reached on 571-272-6754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian E. Glessner/
Supervisory Patent Examiner, Art Unit 3633

/M. J. S./
Examiner, Art Unit 3635
21 October 2010